REMARKS

This paper is responsive to the Office Action dated July 31, 2003, having a shortened statutory period expiring October 31, 2003, wherein:

Claims 1 and 146-167 were previously pending in the application;

Claims 1, 146-154, 156-165, and 167 were rejected; and

Claims 155 and 166 were objected to.

No claims have been amended, cancelled, or added by the current amendment. Accordingly, claims 1 and 146-167 remain currently pending in the present application.

Formal Matters

Applicants wish to express their appreciation for the Examiner's indication of allowability as to Applicants' claims 155 and 166. While dependent claims 155 and 166 have not been rewritten in independent form as suggested by the Examiner at this time, Applicants reserve the right to submit one or more claims including the claim elements indicated as allowable by the Examiner in a subsequent response.

Rejection of Claims under 35 U.S.C. §103

In the present Office Action, claims 1, 147-149, 156, 158-160, and 167 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,987,526, issued to Morales (hereinafter, "*Morales*") in view of U.S. Patent No. 5,959,972, issued to Hamami (hereinafter, "*Hamami*") and claims 146, 150-154, 157, and 161-165 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Morales* in view of *Hamami* and further in view of U.S. Patent No. 6,282,170 B1, issued to Bentall (hereinafter, "*Bentall*"). While not conceding that any of the cited references qualify as prior art, but instead to expedite prosecution, Applicants have elected to traverse the claim rejections as follows. The following arguments are made without prejudice to Applicants' right to establish, for example in a continuing application, that one or more cited reference(s) do not qualify as prior art with respect to an invention embodiment currently or subsequently claimed.

Applicants respectfully submit that the cited references fail to teach, show, or suggest all elements of Applicants' claims and moreover that the present Office Action fails to provide a sufficient suggestion or motivation to combine the Examiner's cited references. More specifically, Applicants submit that the Examiner's cited references fail to teach, show, or suggest a method for restoring a virtual path in an optical network, the method comprising:

> restoring said virtual path to a second port...wherein said restoring...comprises,
> > transferring a restoration message packet between said first node and said second node; and
> > identifying said second port within said link in response to said transferring.

as required by Applicants' claim 1 and generally required by Applicants' claims 156 and 167.

Regarding Applicants' claim 1, the present Office Action states that,

> Hamami discloses that as a port failure is detected, one of the backup ports that detects the failure informs its peer port in another switch (transferring a restoration message between the first node and the second node). Controllers in the first and the second nodes sends acknowledgement to both backup ports to restore traffic over the backup link (identifying the second port in response to the transferring). See col. 6, line 60 to col. 7, line 15.

Applicants respectfully disagree. According to the teaching of *Hamami*,

> A redundant link connection between two ATM switches is constructed using two separate parallel communication links connected between separate ports on each of the switches. One communication link is termed the main link and the other is termed the backup link...Two virtual circuits are setup between the backup link ports. One is a direct virtual circuit directed over the backup link. The other is at indirect virtual circuit that is routed over the main link via the main link ports...Until a failure occurs, traffic normally proceeds over the main link while the backup link ports transmit keep alive messages to each other over the indirect virtual circuit that is routed over the main link.
> When the main link fails, either one or both of the backup link ports detects the failure. The data traffic is then switched from the main link to the backup link. The failure is detected by the failure of the backup link ports to receive keep alive messages. The direct virtual circuit is used by both backup link ports to coordinate and synchronize the switch over of traffic from the main link to the backup link. (*Hamami*, Column 2, Lines 40-63, emphasis supplied)

Hamami further teaches that, "The method of the present invention comprises two phases. The first phase is the setting up of the virtual circuits between the two switches at call establishment time. It is at this time that the redundancy mechanism is put into place. The second phase occurs when a failure is detected." (*Hamami*, Column 5, Lines 29-34, emphasis supplied)

Applicants respectfully submit that as has been clearly shown by the above-quoted portions, *Hamami* teaches, prior to the detection of a failure of a main link, the creation of a backup link and a direct virtual circuit between, and consequently the identification of, backup link ports. Thus, *Hamami*'s backup link ports are identified prior to any failure, and not as the result of transferring a restoration message packet. Consequently, Applicants submit that not only does *Hamami*'s statement that, "one of the backup ports that detects the failure informs its peer port in another switch" (emphasis supplied) fail to teach the claimed "transferring", but additionally that *Hamami* cannot be construed as teaching, "identifying said second port within said link *in response to* said transferring" (Applicants' claim 1, emphasis supplied) as the virtual circuit(s), links, and ports of *Hamami* are set up before a failure occurs.
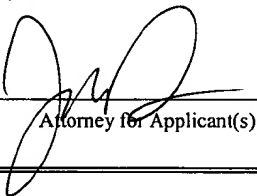
Additionally, as admitted in the present Office Action, *Morales* fails to teach, show, or suggest, "transferring a restoration message packet between the first node and the second node; and identifying the second port in response to the transferring," Applicants therefore respectfully submit that no combination of *Hamami* and *Morales* may be construed as teaching the claimed "identifying" as it has been shown that neither of the Examiner's cited references teach, show, or suggest "identifying said second port" individually.

Moreover, Applicants respectfully submit that the statement that, "both Morales and Hamami teach detecting a port failure in a network" without more, does not provide an adequate suggestion or motivation to combine the references' teachings as required by a *prima facie* case of obviousness. Consequently, Applicants submit that the cited references *Morales* and *Hamami* fail to teach, show, or suggest all elements of
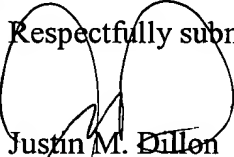
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Applicants' claims and further that sufficient justification for their combination has not been provided by the present Office Action.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5080.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Non-Fee Amendment, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on _10-3-_____, 2003.

_____   10-3-03
Attorney for Applicant(s)   Date of Signature

Respectfully submitted,

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